

# Congress of the United States

Washington, D.C. 20515

July 23, 2012

The Honorable Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Dear Chairman Genachowski:

We are concerned about the FCC's recent expansive interpretation of the "program carriage" rules. Expanding video regulation in the current environment ignores the realities of today's competitive marketplace.

In today's video market, cable operators compete with satellite operators, telecommunications providers offering video, over-the-air broadcasters, online streaming video and online video distributors such as Netflix, Hulu and Roku. Cable operators must make reasonable business decisions about which programming services offer the right price and value for their subscribers. Like any business operating in a competitive market, they need flexibility to select programming that is of interest to their consumers and to package that programming in a way that enhances consumer choice and reduces cost.

This is a much different market from 1992 when Congress first enacted the program carriage provisions. Those provisions restrict the ability of cable operators to freely negotiate with unaffiliated cable programmers. That may have made sense in 1992 when cable dominated the pay-TV market with regard to both distribution and programming. Today's market is much more competitive in both respects. The FCC's rules should reflect those changes rather than expand the reach of regulations that have outlived their purpose.

The FCC's recent interpretation of the program carriage rules, however, could be read to enable programmers effectively to force their way on to a cable operator's system by merely alleging that their programming is similar enough to the operator's affiliated programming, rather than showing that there has been anticompetitive discrimination.

This is a broad expansion of the FCC's program carriage rules and procedures. But more important, it is consumers who will ultimately bear the brunt of these expanded regulations through higher costs. In a difficult economy, consumers are looking for ways to trim their budgets.

Cable operators need the flexibility to respond, or risk losing their consumers. They also should not be forced to spend millions of dollars defending against groundless allegations.

Thank you for your assistance.

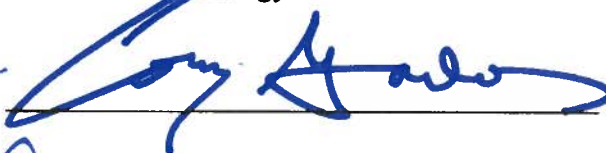
Sincerely,

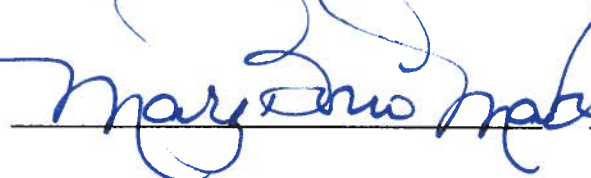



Fred Upton  
Chairman  
Committee on Energy and Commerce

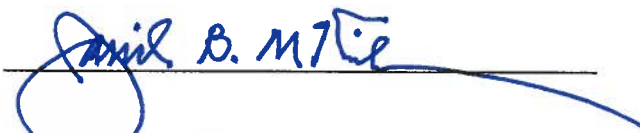
Greg Walden  
Chairman  
Subcommittee on Communications and Technology  
Committee on Energy and Commerce

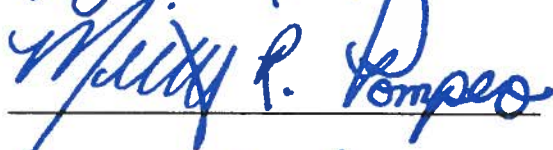








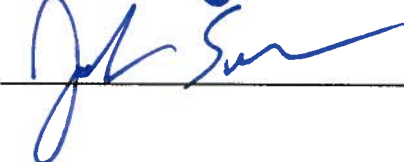


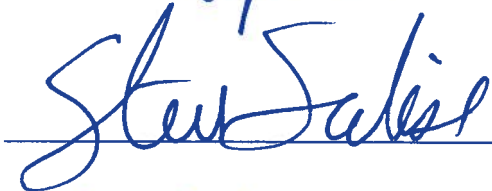




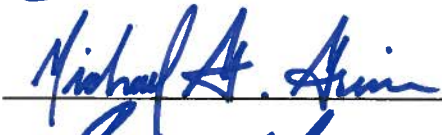


















Brian Binkley

Jim Matheson

Cathy McPherson Rodger

Mark Nor

Jenny Reberg

for Sen. IL-19

Charles F. Bass

Chris Smith

Cliff Steny

Lee Terry

Al Franken

Robert E. Jasso

Joseph R. Pitts

Sue Myrick

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Anna Eshoo, Ranking Member  
Subcommittee on Communications and Technology

**Signatories**

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Fred Upton  
Leonard Lance  
Mary Bono Mack  
Cynthia Lummis  
Michael Pompeo  
Brett Guthrie  
Mike Rogers (MI)  
Steve Scalise  
Michael Grimm  
Ed Whitfield

Greg Walden  
Cory Gardner  
Marsha Blackburn  
David McKinley  
Pete Olson  
Gregg Harper  
John Sullivan  
Phil Gingrey  
Tim Murphy  
Michael C. Burgess

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Brian Bilbray  
Cathy McMorris Rodgers  
Denny Rehberg  
Charles Bass  
Cliff Stearns  
Adam Kinzinger  
Joseph Pitts

Jim Matheson  
Mike Ross  
John Shimkus  
Christopher Smith  
Lee Terry  
Robert E. Latta  
Sue Myrick